

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
WHITE PLAINS DIVISION**

**CASE NO.: 7:22-cv-6642**

HAROLD DAVIS,

Plaintiff,

v.

INNOVATE CORP. DBA AZTECA  
AMERICA,

Defendant.

**COMPLAINT FOR COPYRIGHT INFRINGEMENT**  
**(INJUNCTIVE RELIEF DEMANDED)**

Plaintiff HAROLD DAVIS by and through his undersigned counsel, brings this Complaint against Defendant INNOVATE CORP. DBA AZTECA AMERICA for damages and injunctive relief, and in support thereof states as follows:

**SUMMARY OF THE ACTION**

1. Plaintiff HAROLD DAVIS ("Davis") brings this action for violations of exclusive rights under the Copyright Act, 17 U.S.C. § 106, to copy and distribute Davis' original copyrighted Work of authorship.

2. Harold Davis is the bestselling author of many books about digital photography and Photoshop, including most recently "Achieving Your Potential As A Photographer" from Focal Press, as well as "Monochromatic HDR Photography", "The Way Of The Digital Photographer" and many others. Mr. Davis is a digital artist using his photographs as his source material. Mr. Davis uses his training and skills as a fine art painter to free him from the restraints of conventional photography and place him squarely in the broader traditions and

experiences of art. Specifically, he starts with the creative controls inherent to cameras and photography, and by using compositing, Photoshop, digital painting on layers and layer masks, and special effect filters to achieve the desired effect.

3. Defendant INNOVATE CORP. DBA AZTECA AMERICA (“Innovate”) is a diversified holding company, formally known as HC2 Holdings, Inc. At all times relevant herein, Innovate owned operated, and/or controlled the internet website located at the URL <https://www.tvazteca.com> (the “Website”).

Davis alleges that Innovate copied Davis' copyrighted Work from the internet in order to advertise, market and promote its business activities. Innovate committed the violations alleged in connection with Innovate’s business for purposes of advertising and promoting sales to the public in the course and scope of the Innovate’s business.

### **JURISDICTION AND VENUE**

5. This is an action arising under the Copyright Act, 17 U.S.C. § 501.

6. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1338(a).

7. Defendant is subject to personal jurisdiction in New York.

8. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, Defendant engaged in infringement in this district, Defendant resides in this district, and Defendant is subject to personal jurisdiction in this district.

### **DEFENDANT**

9. INNOVATE Corp. dba Azteca America is a New York Corporation, with its principal place of business at 295 Madison Avenue, 12th Floor, New York, NY 10017, and can

be served by serving its Registered Agent, Innovate Corp., 56 Vernon Avenue, Yonkers, NY 10704.

**THE COPYRIGHTED WORK AT ISSUE**

In 2013, Davis created the photograph entitled “Villandry”, which is shown below and referred to herein as the “Work”.



Davis registered the Work with the Register of Copyrights on May 17, 2016 and was assigned the registration number VA 2-010-613. The Certificate of Registration is attached hereto as Exhibit 1.

Davis' Work is protected by copyright but is not otherwise confidential, proprietary, or trade secrets.

13. At all relevant times Davis was the owner of the copyrighted Work at issue in this case.

**INFRINGEMENT BY DEFENDANT**

14. Innovate has never been licensed to use the Work at issue in this action for any purpose.

15. On a date after the Work at issue in this action was created, but prior to the filing of this action, Innovate copied the Work.

16. On or about August 5, 2019, Davis discovered the unauthorized use of his Work on the Website. The Work was used in a gallery of photos on the Website titled *CIUDADES EUROCOPIA: NIZA* (translation from Spanish to English: Euro Cities: Nice).

17. Innovate copied Davis' copyrighted Work without Davis' permission.

18. After Innovate copied the Work, it made further copies and distributed the Work on the internet to promote the sale of goods and services as part of its regular business activities.

19. Innovate copied and distributed Davis' copyrighted Work in connection with Innovate's business for purposes of advertising and promoting Innovate's business, and in the course and scope of advertising and selling products and services.

20. Davis' Works are protected by copyright but are not otherwise confidential, proprietary, or trade secrets.

21. Innovate committed copyright infringement of the Work as evidenced by the documents attached hereto as Exhibit 2.

22. Davis never gave Innovate permission or authority to copy, distribute or display the Work at issue in this case.

23. Davis notified Innovate of the allegations set forth herein on August 12, 2021 and September 24, 2021. To date, Innovate has failed to respond to Plaintiff's Notices.

### **COPYRIGHT INFRINGEMENT**

24. Davis incorporates the allegations of paragraphs 1 through 23 of this Complaint as if fully set forth herein.

25. Davis owns a valid copyright in the Work at issue in this case.

26. Davis registered the Work at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

27. Innovate copied, displayed, and distributed the Work at issue in this case and made derivatives of the Work without Davis' authorization in violation of 17 U.S.C. § 501.

28. Innovate performed the acts alleged in the course and scope of its business activities.

29. Innovate's acts were willful.

30. Davis has been damaged.

31. The harm caused to Davis has been irreparable.

WHEREFORE, the Plaintiff Harold Davis prays for judgment against the Defendant INNOVATE Corp. dba Azteca America that:

a. Defendant and its officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. § 501;

b. Defendant be required to pay Plaintiff his actual damages and Innovate's profits attributable to the infringement, or, at Plaintiff's election, statutory damages, as provided in 17 U.S.C. § 504;

Plaintiff be awarded his attorneys' fees and costs of suit under the applicable statutes sued upon;

d. Plaintiff be awarded pre- and post-judgment interest; and

e. Plaintiff be awarded such other and further relief as the Court deems just and proper.

**JURY DEMAND**

Plaintiff hereby demands a trial by jury of all issues so triable.

DATED: August 4, 2022

Respectfully submitted,

/s/Joseph A. Dunne

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